

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH**

**BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI PRAKASH CHAND YADAV., JM**

**ITA Nos. 792 to 795/Coch/2024
Assessment Years: 2009-10 to 2011-12 & 2013-14**

The Dharmodayam Company Appellant
Round East, Thrissur
[PAN: AAACD8589J]

vs.

The Income Tax Officer, Ward-1(1), Thrissur Respondent

Appellant by: Ms. Niveditha K. Kammath, Advocate
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 28.05.2025
Date of Pronouncement: 30.05.2025

ORDER

Per: Inturi Rama Rao, AM

These appeals filed by the assessee are directed against different orders of the National Faceless Appeal Centre, Delhi dated 08.07.2024 for Assessment Years 2009-10 to 2011-12 & 2013-14.

2. Since identical issues and facts are involved in these appeals, they are heard together and disposed of by this common order.

3. For the sake of convenience and clarity the facts relevant to the appeal bearing ITA No. 792/Coch/2024 for AY 2009-10 are stated herein.

4. Brief facts of the case are that the appellant is a company incorporated under the provisions of section 25 of the Companies Act. The company was duly registered u/s. 12A of the Act. The return of income for AY 2009-10 was filed on 10.09.2009 declaring Nil income after claiming exemption u/s. 11 of the Income Tax Act, 1961 (the Act). Against the said return of income, the assessment was completed by the ITO, Ward -1(1), Thrissur (hereinafter called "the AO") vide order dated 29.12.2011 passed u/s. 143(3) of the Act after making the following additions: -

- i) Disallowance of income earmarked and set apart for Education and Hospital fund u/s. 11(2) Rs. 59,25,000/- for the AY 2009-10.
- ii) Income earmarked and set apart u/s. 11(2) balance outstanding as on 01.04.1999 Rs. 56,06,078/- utilised during the FY 1999-00 relevant to the AY 2000-01 Rs. 31,76,146/-.
- iii) Income earmarked and set apart u/s. 11(2) balance outstanding as on 01.04.1999 Rs. 56,06,078/- utilised during the FY 2000-01 relevant to the AY 2001-02 Rs. 24,38,932/-.
- iv) Income earmarked and set apart u/s. 11(2) for the FY 2003-04 relevant to the AY 2004-05 utilised during the FY 2004-05 relevant to the AY 2005-06 Rs. 31,35,000/-.

v) Disallowance of depreciation claimed u/s. 31 Rs. 31,704/-.

5. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order confirmed the action of the AO.

6. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

7. We have heard the rival contentions and perused the material available on record. We find from the material on record that raising of funds for charitable activities was by conducting curries and receiving donations, etc. The business of conducting curries was done under the trust by the appellant. Conducting curries was not the object of the company. It was the property of the company, hence, eligible for exemption u/s. 11 of the Act, therefore, the AO was not correct in assessing the profits from curries. Similarly, the AO was also not correct in holding that the income accumulated from earlier years can be brought to tax for the year under consideration as Form 10 does not specify any specific object for the funds were accumulated. It is not necessary that the specific purpose should be mentioned in Form 10 for accumulation of income under the provisions of section 11(2) of the Act. In the light of this proposition we are of the considered opinion that the matter requires remand to the file of AO for the purpose of verification to satisfy himself as to fulfillment of other conditions for grant of exemption u/s. 11 of the Act. Therefore, we remand the matter to the file of the AO for fresh

adjudication in accordance with law after affording reasonable opportunity of hearing to the appellant. According the appeal of the assessee is partly allowed.

8. Since identical issues are involved in all other appeals, the above findings are mutatis mutandis apply to all these appeals also.

9. In the result, the appeals in ITA No. 792 to 795/Coch/2024 stand partly allowed.

Order pronounced in the open court on 30th May, 2025.

Sd/-
(PRAKASH CHAND YADAV)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 30th May, 2025

n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

By Order

Assistant Registrar
ITAT, Cochin